

Message Text

UNCLASSIFIED

PAGE 01 USUN N 01233 01 OF 02 252153Z
ACTION IO-13

INFO OCT-01 AF-10 ARA-10 EA-09 EUR-12 NEA-10 AID-05
CIAE-00 COME-00 EB-08 FRB-01 INR-07 NSAE-00
USIA-15 TRSE-00 XMB-04 OPIC-06 SP-02 LAB-04
SIL-01 OMB-01 EPA-04 OES-06 CEQ-01 HEW-06 ISO-00
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TO SECSTATE WASHDC 3297
INFO USMISSION GENEVA
USMISSION OECD PARIS

UNCLAS SECTION 1 OF 2 USUN 1233

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TAGS: EGEN, UN, ECOSOC, EINV
SUBJECT: TRANSNATIONAL CORPORATIONS - CODE OF CONDUCT

REF: USUN 1228

TRANSMITTED BELOW ARE THE REMAINING SECTIONS OF THE
TENTATIVE ANNOTATION OF A CODE OF CONDUCT REFERRED TO
IN REFTEL.

QUOTE THE INTERGOVERNMENTAL WORKING GROUP ON A CODE OF
CONDUCT REQUESTED THE CENTRE ON TRANSNATIONAL CORPORATIONS
TO PREPARE A TENTATIVE ANNOTATED OUTLINE OF A CODE ON THE
BASIS OF DISCUSSIONS IN THE GROUP. THESE TEXTS ARE DRAFTED
IN A NON-NORMATIVE LANGUAGE AND ARE TO SERVE AS A BASIS FOR
FURTHER DISCUSSIONS IN THE GROUP. IT IS THE UNDERSTANDING
THAT THESE TEXTS IN NO WAY PREJUDICE THE POSITION OF
GOVERNMENTS IN FINALIZING THE ANNOTATED OUTLINE OF A CODE
OF CONDUCT.

THIS WORKING PAPER IS IN RESPONSE TO THIS REQUEST.
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PAGE 02 USUN N 01233 01 OF 02 252153Z

III. MAJOR PRINCIPLES AND /OR ISSUES RELATED TO THE ACTIVITIES OF
TRANSNATIONAL CORPORATIONS

B. ECONOMIC, FINANCIAL AND SOCIAL

7. EMPLOYMENT AND LABOUR

- OBSERVANCE BY TRANSNATIONAL CORPORATIONS OF POLICIES, LAWS AND REGULATIONS OF HOST COUNTRIES AND OF FUNDAMENTAL ILO PRINCIPLES AND STANDARDS REGARDING EMPLOYMENT PROMOTION AND SECURITY, TRAINING OF LOCAL EMPLOYEES AND THEIR PARTICIPATION IN MANAGEMENT, WAGES, WORKING CONDITIONS, SAFETY AND HEALTH, FREEDOM OF ASSOCIATION, TRADE UNION RIGHTS AND COLLECTIVE BARGAINING AND MEASURES IN CASE OF LAYOFFS, CLOSURES OF PLANTS AND SHIFTS IN PRODUCTION.

- FULL ACCOUNT TO BE TAKEN OF THE WORK OF THE ILO ON MATTERS OF EMPLOYMENT AND LABOUR, AND IN PARTICULAR OF THE ONGOING WORK ON A TRIPARTITE DECLARATION OF PRINCIPLES CONCERNING MULTINATIONAL ENTERPRISES AND SOCIAL POLICY, WITH A VIEW TO MAKING USE, AS APPROPRIATE, OF THE ADOPTED TEXT OF THE DECLARATION IN THE COURSE OF THE PREPARATION OF THE CODE OF CONDUCT BY THE INTERGOVERNMENTAL WORKING GROUP.

8. CONSUMER PROTECTION

- CLOSE CO-OPERATION OF TRANSNATIONAL CORPORATIONS WITH GOVERNMENTS IN THE AREA OF PROTECTING CONSUMERS' HEALTH AND SAFETY AND RESPECT OF NATIONAL LAWS REGARDING STANDARDS OF QUALITY, SAFETY, PRICING AND PROMOTION OF PRODUCTS.

- OBLIGATION BY TRANSNATIONAL CORPORATIONS TO INFORM HOST COUNTRIES OF EXPERIMENTAL USE OF PRODUCTS AND OF PROHIBITIONS, RESTRICTIONS AND WARNINGS ON PRODUCTS FOUND, BY HOME AND OTHER COUNTRIES, TO BE HAZARDOUS TO THE HEALTH

UNCLASSIFIED

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PAGE 03 USUN N 01233 01 OF 02 252153Z

AND SAFETY OF CONSUMERS.

- COMMITMENT OF TRANSNATIONAL CORPORATIONS TO PROVIDE APPROPRIATE INFORMATION TO THE PUBLIC REGARDING THE CONTENTS AND POSSIBLE HAZARDOUS EFFECTS OF PRODUCTS BY SUPPLYING ACCURATE LABELLING AND AVOIDING MISLEADING ADVERTISING.

- EFFORTS BY TRANSNATIONAL CORPORATIONS TO MEET BASIC NEEDS OF THE POPULATION, AS INDICATED BY THE DEVELOPMENT OBJECTIVES OF HOST COUNTRIES, AND TO AVOID TRANSPLANTING ALIEN CONSUMPTION PATTERNS.

(SEE ALSO CROSS-REFERENCE TO CHAPTERS III A 1 AND 2, III C AND IV REGARDING CO-OPERATION BETWEEN GOVERNMENTS AND NON-DISCRIMINATORY TREATMENT BETWEEN TRANSNATIONAL CORPORATIONS AND NATIONAL ENTERPRISES IN THIS FIELD)

9. ENVIRONMENTAL PROTECTION

- CO-OPERATION OF TRANSNATIONAL CORPORATIONS WITH GOVERNMENTS REGARDING THE PROTECTION, PRESERVATION AND ENHANCEMENT OF THE ENVIRONMENT AND ADHERENCE TO NATIONAL AND INTERNATIONAL STANDARDS.

- ABSTENTION OF TRANSNATIONAL CORPORATIONS FROM USING IN HOST COUNTRIES PRODUCTIVE PROCESSES PROHIBITED IN HOME COUNTRIES ON ENVIRONMENTAL PROTECTION GROUNDS.

- COLLABORATION WITH UNEP AND OTHER RELEVANT INTERNATIONAL BODIES REGARDING THE DEVELOPMENT OF INTERNATIONAL ENVIRONMENTAL PROTECTION STANDARDS.

(SEE ALSO CROSS-REFERENCE TO CHAPTER IV).

C. DISCLOSURE OF INFORMATION BY TRANSNATIONAL CORPORATIONS OF THEIR ACTIVITIES
UNCLASSIFIED

UNCLASSIFIED

PAGE 04 USUN N 01233 01 OF 02 252153Z

- OBLIGATION OF TRANSNATIONAL CORPORATIONS TO DISCLOSE TO GOVERNMENTAL AUTHORITIES, THE PUBLIC AND THEIR EMPLOYEES FINANCIAL AND NON-FINANCIAL DATA, TO A GLOBAL AND AN APPROPRIATELY DISAGGREGATED BASIS, REQUIRED FOR EVALUATION OF THEIR ACTIVITIES AND IMPACT, WITH DUE REGARD TO THE COSTS INVOLVED AND THE REQUIREMENTS OF BUSINESS CONFIDENTIALITY RELATED TO COMPETITION.

- FULL CO-OPERATION OF TRANSNATIONAL CORPORATIONS WITH GOVERNMENTS TO PROVIDE ON A REGULAR BASIS AND UPON REQUEST INFORMATION REQUIRED BY NATIONAL LAWS AND REGULATIONS FOR VARIOUS PURPOSES, INCLUDING STATISTICAL ONES, ON SPECIFIED FINANCIAL AND NON-FINANCIAL DATA OF BRANCHES, AFFILIATES AND OF THE GLOBAL OPERATIONS OF THE ENTERPRISE. SUCH DATA MIGHT INCLUDE THE STRUCTURE OF ENTERPRISE, ORIGIN OF CAPITAL, USES OF FUNDS, PRICING POLICIES, NUMBER OF EMPLOYEES, RESEARCH AND DEVELOPMENT EXPENDITURES, POLICIES FOLLOWED IN INTRAGROUP PRICING, ACCOUNTING PRINCIPLES, USE OF LOCAL RAW MATERIAL, TRAINING OF LOCAL PERSONNEL, ETC.

- COMMITMENT OF TRANSNATIONAL CORPORATIONS TO DISCLOSE AT REGULAR INTERVALS TO THE PUBLIC FINANCIAL AND NON-FINANCIAL DATA OF THE ENTERPRISE AS A WHOLE AND OF ITS AFFILIATES, BROKEN DOWN AS APPROPRIATELY BY COUNTRY OR GEOGRAPHIC AREA, INCLUDING OWNERSHIP STRUCTURE, NUMBER AND LOCATION OF AFFILIATES, PRINCIPAL ACTIVITIES, SALES, INVESTMENTS, RESEARCH AND DEVELOPMENT EXPENDITURES, NUMBER OF EMPLOYEES AND TRANSFER PRICING AND ACCOUNTING PRINCIPLES, ETC.

- COMMITMENT OF TRANSNATIONAL CORPORATIONS TO DISCLOSE
TO WORKERS' REPRESENTATIVES INFORMATION REQUIRED FOR
MEANINGFUL NEGOTIATIONS TAKING INTO ACCOUNT NATIONAL
STANDARDS AND PRACTICES.

UNCLASSIFIED

UNCLASSIFIED

PAGE 05 USUN N 01233 01 OF 02 252153Z

- ACCOUNT TO BE TAKEN OF THE WORK OF THE EXPERT GROUP ON THE
DEVELOPMENT OF INTERNATIONAL STANDARDS OF ACCOUNTING AND
REPORTING.

(SEE ALSO CROSS-REFERENCE TO CHAPTER IV)

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PAGE 01 USUN N 01233 02 OF 02 252205Z
ACTION IO-13

INFO OCT-01 AF-10 ARA-10 EA-09 EUR-12 NEA-10 ISO-00
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UNCLAS SECTION 2 OF 2 USUN 1233

IV. PRINCIPLES AND/OR ISSUES RELATING TO THE THE TREATMENT
OF TRANSNATIONAL CORPORATIONS

- PRINCIPLE OF INTERGOVERNMENTAL CO-OPERATION IN MATTERS
RELATED TO THE ACTIVITIES OF TRANSNATIONAL CORPORATIONS.
HOME AND HOST GOVERNMENTS' CO-OPERATION IN ISSUES AFFECTING
INTERGOVERNMENTAL RELATIONS RESULTING FROM ACTIVITIES OF
TRANSNATIONAL CORPORATIONS, IN PREVENTING AND COMBATING
CORRUPT PRACTICES, IN EXCHANGE OF INFORMATION REGARDING
TRANSFER PRICING, TAXATION AND RESTRICTIVE BUSINESS PRACTICES,

IN CONSUMER AND ENVIRONMENTAL PROTECTION, IN DISCLOSURE
OF INFORMATION ON TRANSNATIONAL CORPORATIONS IN JURISDICTION
AND THE SETTLEMENT OF DISPUTES.

A. GENERAL TREATMENT OF TRANSNATIONAL CORPORATIONS BY HOME
AND HOST COUNTRIES

- EQUITABLE AND NON-DISCRIMINATORY TREATMENT OF AFFILIATES
OF TRANSNATIONAL CORPORATIONS UNDER THE LAWS, REGULATIONS
AND ADMINISTRATIVE PRACTICES OF HOST COUNTRIES, TAKING
INTO ACCOUNT INTERNATIONAL LAW AND PRACTICE AND CONTRACTUAL
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UNCLASSIFIED

PAGE 02 USUN N 01233 02 OF 02 252205Z

OBLIGATIONS TO WHICH PARTIES HAVE FREELY SUBSCRIBED.
TREATMENT OF TRANSNATIONAL CORPORATION AFFILIATES EQUAL,
BUT NOT PREFERENTIAL, WITH DUE REGARD TO TRANSNATIONAL
CORPORATION ASPECTS WHICH DIFFER FROM NATIONAL ENTERPRISES
AND OF REQUIREMENT OF NATIONAL SECURITY AND OTHER SPECIFIC
NATIONAL INTERESTS.

- GENERAL STABILITY AND CLARITY OF TERMS OF ADMISSION AND
OPERATION, OF GOALS, OBJECTIVES, LAWS, REGULATIONS AND
ADMINISTRATIVE PRACTICES AFFECTING THE ACTIVITIES OF
TRANSNATIONAL CORPORATIONS.

- CLARITY IN RULES REGARDING PERMISSIBLE POLITICAL ACTIVITIES
OF TRANSNATIONAL CORPORATION AFFILIATES.

- ABSTENTION FROM USING TRANSNATIONAL CORPORATIONS AS
INSTRUMENTS FOR THE ATTAINMENT OF FOREIGN POLICY GOALS AND
ABSTENTION FROM EXERTING PRESSURE ON FOREIGN GOVERNMENTS
ON BEHALF OF TRANSNATIONAL CORPORATIONS.

B. NATIONALIZATION AND COMPENSATION

- RECOGNITION OF RIGHT OF NATIONALIZATION ON GROUNDS OF
PUBLIC UTILITY, SECURITY OR THE NATIONAL INTEREST.

- ASSURANCE THAT THE COMPENSATION PAID IN CASE OF NATIONALIZA-
TION, IS FAIR AND ADEQUATE DETERMINED ACCORDING TO DUE
PROCESSES OF LAW OF THE COUNTRY CONCERNED OR IN ACCORDANCE
WITH ANY ARBITRATION ARRANGEMENTS EXISTING BETWEEN THE PARTIES.

- ASSURANCE THAT THE COMPENSATION REPRESENTING THE MARKET VALUE,
IS PAID WITHOUT UNDUE DELAY AND IS TRANSFERABLE TO THE EXTENT
NECESSARY TO MAKE IT EFFECTIVE, IN ACCORDANCE WITH INTERNATION-
AL LAW AND PRACTICE. IN CASE OF DISPUTES, USE OF INTERNATIONAL
ARBITRATION PROCEDURES.

UNCLASSIFIED

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PAGE 03 USUN N 01233 02 OF 02 252205Z

OR

- ASSURANCE THAT THE COMPENSATION IS APPROPRIATE TAKING INTO ACCOUNT THE RELATIVE LAWS AND REGULATIONS OF THE STATE CONCERNED AND ALL CIRCUMSTANCES THAT THE STATE CONSIDERS PERTINENT. IN CASE OF CONTROVERSY, SETTLEMENT UNDER THE DOMESTIC LAW OF THE NATIONALIZING STATE AND ITS COURTS UNLESS IT IS FREELY AND MUTUALLY AGREED BY THE STATE INVOLVED THAT OTHER PEACEFUL MEANS BE SOUGHT ON THE BASIS OF THE SOVEREIGN EQUALITY OF STATES.

C. JURISDICTION

- RECOGNITION OF THE JURISDICTION OF THE COUNTRY IN WHICH AN ENTITY OF A TRANSNATIONAL CORPORATION IS ESTABLISHED.

- NEED OF THE INTERGOVERNMENTAL CO-OPERATION IN CASE OF CONFLICT OF LAWS, EXTRA-TERRITORIAL APPLICATION OF LAWS OR CONFLICTS RELATED TO ACTIVITIES OF TRANSNATIONAL CORPORATIONS BEYOND THE JURISDICTION OF HOME AND HOST COUNTRIES.

(SEE ALSO CROSS-REFERENCE TO CHAPTER VI). UNQUOTE
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Message Attributes

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